

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PRESERVE OUR ISLANDS, a Washington
Non-profit Corporation; PEOPLE FOR
PUGET SOUND, a Washington Non-profit
Corporation; WASHINGTON
ENVIRONMENTAL COUNCIL, a
Washington Non-profit Corporation;

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS, et
al

Defendants,

and

NORTHWEST AGGREGATES
COMPANY,

Defendant-Intervenors.

NO. C08-1353-RSM

DECLARATION OF
DAVID S. MANN IN SUPPORT OF
PLAINTIFFS' MOTION FOR FEES
AND EXPENSES

I, David S. Mann, declare as follows:

1. I am one of the attorneys for plaintiffs. The information in this declaration is based on my personal knowledge. The purpose of this declaration is to itemize the attorneys' fees and expense components that comprise Plaintiffs' requests for attorneys'

DECLARATION OF DAVID S. MANN
(C08-1353-RSM)- 1

GENDLER & MANN, LLP
1424 Fourth Avenue, Suite 1015
Seattle, WA 98101
Phone: (206) 621-8868
Fax: (206) 621-0512

1 fees and expenses pursuant to 28 U.S.C. § 241(d) ("EAJA") and to document each
2 attorneys' time, hourly rates, and the expenses incurred by plaintiffs.

3 2. The total amount requested in this motion is \$93,132.10 consisting of
4 \$89,650.00 in attorneys' fees and \$3,482.10 in other itemize costs. The items that
5 comprise this total are summarized below and described in detail in the following
6 paragraphs 8-22 and Exhibits 1-3.

8 **SUMMARY**

- 9 1. Attorney David S. Mann, 59.8 hours at \$325/hour (2008) = \$19,435.00
10 2. Attorney David S. Mann, 153.7 hours at \$350/hour (2009) = \$53,795.00
11 3. Attorney Ashley Peck, 32.7 hours at \$200/hour = \$6,540.00
12 4. Attorney Brendan Donckers, 49.4 hours at \$200/hour = \$9,880.00
13 5. Itemized Expenses = \$3,482.10

14 **TOTAL** **\$93,132.10**

15 3. I have been licensed to practice law since 1991.

16 4. I graduated from the University of California with a degree in geophysics in
17 1982 and worked six years as a professional geophysicist before entering laws school in
18 1988 at Lewis and Clark law school in Portland, Oregon. I chose Lewis and Clark because
19 it was (and has continuously been) rated either first or second in the U.S. for its
20 environmental law program. During my 3 years at Lewis and Clark, in addition to the
21 traditional "bar" classes, I took specialized classes or seminars in a variety of
22 environmental law subjects including the Endangered Species Act, the Clean Water Act,
23 the National Environmental Policy Act, and Federal Public Lands Law. I also served as
24 an associate editor on the Lewis and Clark Law Review: "Environmental Law."
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1 5. In addition to my class work in law school, I worked all three years as a
2 volunteer and then paid law clerk for the Northwest Environmental Defense Center
3 working with attorneys on a variety of federal environmental law cases including
4 challenges under NEPA and the ESA.

5
6 6. I graduated from Lewis and Clark law school in 1991 with honors,
7 including a certificate in Environmental Law, the Natural Resources Law Institutes Honors
8 for Environmental Leadership, the O'Rourke award for environmental writing and the
9 Manas Scholarship for public interest environmental leadership.

10 7. Immediately after passing the Washington State bar in 1991, I joined the
11 Seattle firm of Bricklin & Gendler where I focused my practice on environmental law,
12 natural resource law and land use. I became a partner at Bricklin & Gendler in 1997. In
13 2002, I joined my partner Michael ("Mickey") Gendler in forming a new firm, Gendler &
14 Mann, LLP where I remain today. During my 18 years of practice, my focus has remained
15 public interest environmental law, natural resources law and land use. I have represented
16 clients on environmental cases, including NEPA and ESA cases in the Eastern and
17 Western Districts of Washington and Ninth Circuit Court of Appeals. I have also
18 represented clients in Washington State "SEPA" cases throughout the State's superior
19 courts, courts of appeal and Washington Supreme Court. I am a regular speaker at CLE's
20 in Washington on land use and environmental law. I have been listed by Washington Law
21 and Politics Magazine as a "SuperLawyer" in land use and environmental law for the past
22 4 years. My current resume and list of representative cases are available on my website at
23 www.gendlermann.com.
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1 8. During 2008 I charged \$325.00 per hour for my time on environmental and
2 land use cases. I increased my rate to \$350.00 per hour beginning January, 2009. Based
3 on my personal experience, including my experience as managing partner of my firm for
4 the past 5 years and on my knowledge of fees charged by a variety of lawyers in related
5 practices in Washington, I know that my services are worth at least \$350.00 per hour in the
6 Seattle market.

7
8 9. Our firm recently tried and prevailed on an employment/retaliation/civil
9 rights case in the Western District of Washington (*Chen and Barahimi v. Dougherty et al.*,
10 Cause No. CV04-0987P). Last month Judge Pechman awarded my partner Michael
11 Gendler (30 years experience) attorneys' fees at a rate of \$400.00 per hour. Judge
12 Pechman awarded my associate Keith Scully (9 years experience) attorneys' fees at a rate
13 of \$300.00 per hour. Judge Pechman awarded fees for our first year associates at \$200.00
14 per hour.

15
16 10. I have represented plaintiffs in their opposition to the proposed Maury
17 Island gravel loading facility since 2004. I was initially retained to assist a prior attorney
18 during litigation before the Washington Shoreline Hearings Board. I took over as lead
19 attorney for plaintiffs in February 2005.

20
21 11. While I assisted plaintiffs in commenting during the federal defendant
22 agencies' review process, technically my work on litigation involving the issues presented
23 to this court began on July 3, 2008 – two days after the Corps' permit decision was issued
24 – when I received a call from Assistant U.S. Attorney Brian Kipnis seeking information on
25 when if and when we expected to appeal the Corps' decision.

1 12. I spent have devoted a total of 213.7 hours to representation of the plaintiffs
2 in this litigation, up to and including the preparation of this declaration and fee motion. I
3 will likely spend additional time preparing a reply to any opposition. I will itemize and
4 request this additional time with my reply materials. The bulk of my time was spent
5 researching and preparing the original complaint; preparing briefing related to the
6 temporary restraining order in December, 2008 and then preparing the briefing and
7 argument on the merits.
8

9 13. I keep my billing records on a contemporaneous basis. Exhibit 1 is a true
10 and correct compilation of all of my monthly time statements for plaintiffs from July, 2008
11 to the present. During the time I was working on this litigation, I was also representing
12 plaintiff Preserve Our Islands in related proceedings in Washington State courts and the
13 Washington Pollution Control Hearings Board. I have deleted all of entries for matters
14 outside of this litigation.
15

16 14. I have also deleted time directly related to issues researched, but either
17 dropped or not pursued in this litigation. For example, I deleted over 10 hours of time
18 billed for research in July, 2008, related to possible claims under the Marine Mammal
19 Protection Act. I similarly deleted 1.6 hours of my time in December, 2008 in reviewing
20 defendants' motion to dismiss plaintiffs' Marine Mammals Protection Act claims and in
21 preparing an amended complaint. While I often relied upon one of my associates for
22 research, I have tried to eliminate duplicate time (including time by associate Brendan
23 Donckers for attending oral argument).
24

25 15. I have included in this fee petition time spent preparing plaintiffs' motion
26 for a temporary restraining order and preliminary injunction. While this motion was
27
28

1 ultimately unsuccessful, I believe that the time spent preparing the motion and reviewing
2 the federal record was well spent and carried over to subsequent briefing on the merits.

3 16. Considering the complexity of the record and complexity of the issues in
4 this matter, I believe that the request for compensation for 213.5 hours of my time on this
5 litigation at \$325 per hour for 2008 and \$350.00 per hour for 2009 is reasonable. The
6 reasonable value of my time on this litigation is \$73,230.00.

7 17. I relied also on other lawyers in our firm to assist in this litigation. The
8 individuals who worked on the case include associates Ashley Peck and Brendan
9 Donckers. Using associate attorneys to research and draft initial pleadings was efficient
10 and allowed us to accomplish many of these tasks at a lower cost.

11 18. Attorney Ashley Peck graduated from the University of Washington School
12 of Law in 2007 and worked for us as an associate attorney from 2007 to 2008. Ms. Peck
13 subsequently left our firm to take a position with K&L Gates. The hourly rate of \$200.00
14 per hour is a reasonable rate for a first year associate attorney in the Seattle Market. Ms.
15 Peck devoted 32.7 hours of time to this case in July, 2008, researching and drafting the
16 initial complaint. Ex. 1. I believe that these hours were reasonable. The reasonable
17 value of Ms. Peck's time on this case is \$6,540.00.

18 19. Attorney Brendan Donckers graduated from Seattle University Law School
19 in 2008 and began working for us as a first-year associate in September, 2008. The hourly
20 rate of \$200.00 per hour is a reasonable rate for a first year associate attorney in the Seattle
21 Market. Mr. Donckers devoted 49.4 hours to this case between December, 2008 and June,
22 2009, primarily researching and assisting in preparing briefs. Ex. 1. I believe that these

1 hours were reasonable. The reasonable value of Mr. Donckers' time on this case is
2 \$9,880.00.

3 20. Exhibit 2 is a summary table of time billed by attorneys in my office.

4 21. Plaintiffs incurred various expenses in pursuing this matter. These
5 expenses included: (1) \$350.00 filing fee; (2) \$132.10 for service fees; and (3) \$3,000.00
6 for expert witness fees for David Bain, Ph.D. A true and correct copy of Dr. Bain's
7 invoice is attached as Exhibit 3.
8

9 22. I believe these costs, including expert witness fees were reasonable and
10 necessary. Plaintiffs will also incur necessary and reasonable expenses for an expert
11 declaration from David A. Bricklin in support of this fee petition. Those expenses will be
12 itemized in the reply.
13

14 I declare under penalty of perjury under the laws of the State of Washington that
15 the foregoing is true and correct.

16 Dated this 11th day of September, 2009, in Seattle, Washington.

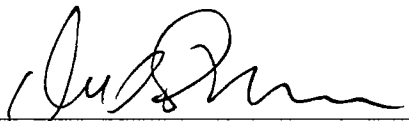
17
18 
19 _____
20 David S. Mann

EXHIBIT 1

Hours and Expenses by Matter

Period: 07/01/2008-07/31/2008

Page 1

09/03/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
Matter 32-1		Preserve Our Island First matter		
07/02/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/03/08 Billed	o DSM	Hourly Phone call with Brian Kipnis	0.20	
07/07/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/07/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/08/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/08/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/08/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/08/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/09/08 Billed	o AAP	Hourly Legal research on section 10, ESA, MMA	3.40	
07/10/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/10/08 Billed	o AAP	Hourly Legal research on ESA - section 7(a)(2) and consultation requirements, section 9 and 10	6.40	
07/11/08 Billed	DSM	Hourly Phone call with Brian Kipnis	0.20	
07/11/08 Billed	o AAP	Hourly Legal research on ESA section 9 prospective "take" cause of action; section 10 guidance in case law	4.30	

Hours and Expenses by Matter

Period: 07/01/2008-07/31/2008

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09/03/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
07/14/08 Billed	o DSM	Hourly Meet with Ashley: legal research	1.00	
07/14/08 Billed	DSM	Hourly Research on Aquatic Insects	1.00	
07/14/08 Billed	o DSM	Hourly LR and review record for ESA claims; MMPA claims	2.70 1.4	
07/14/08 Billed	o AAP	Hourly Review Corps decision documents; meeting with DM; find all critical habitat designations, listings	4.20	
07/15/08 Billed	o DSM	Hourly Phone Call with Amy	0.40	
07/15/08 Billed	DSM	Hourly Review HPA Decision	0.20	
07/15/08 Billed	o DSM	Hourly Legal research; review and prepare complaint	4.00	
07/15/08 Billed	o AAP	Hourly Research on critical habitat; Magnuson Stevens Act; reviewing BEs and concurrence letters	6.20	
07/16/08 Billed	o DSM	Hourly Research and prepare complaint	4.00	
07/16/08 Billed	o DSM	Hourly Phone call with AC	0.20	
07/16/08 Billed	o AAP	Hourly Review orca listing/critical habitat/BE; Draft 60-notice to Corps and Glacier on section 9 and 7(a)(2); compile notice and service reqs and addresses	5.10	
07/17/08 Billed	o DSM	Hourly Complaint	2.00	
07/18/08 Billed	o DSM	Hourly Complaint	4.00	

Hours and Expenses by Matter

Period: 07/01/2008-07/31/2008

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09/03/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
07/18/08 Billed	4 DSM	Hourly Research re: service requirements	0.20	
07/18/08 Billed	AAP	Hourly Edits to Complaint, 60 day notice letters	0.60	
07/22/08 Billed	DSM	Hourly HPA appeal	0.00	
07/22/08 Billed	5 DSM	Hourly Conference with AP re: MMPA, EPA provisions of MPA	0.50	
07/22/08 Billed	AAP	Hourly Review complaint; edit 60 day notice letters; additional research MMPA, Magnuson-Escalante Fish Habitat	5.00	
07/23/08 Billed	DSM	Hourly Review and respond to email	0.10	
07/23/08 Billed	DSM	Hourly Phone call with Amy Coray	0.20	
07/23/08 Billed	DSM	Hourly Review HPA appeal	1.00	
07/23/08 Billed	DSM	Hourly Finalize HPA Appeal	1.50	
07/23/08 Billed	DSM	Hourly Review solid waste letters; phone call with Amy; begin research	0.50	
07/23/08 Billed	AAP	Hourly Edits to complaint - MMPA, MSEA, review biological LCIS, HPA appeal	1.50	
07/24/08 Billed	AAP	Hourly Call with Amy, look for files	0.60	
07/24/08 Billed	0 AAP	Hourly Edits to complaint	0.50	

Period: 07/01/2008-07/31/2008

09/03/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
07/25/08 Billed	0 AAP	Hourly Edits to complaint	0.70	
07/27/08 Billed	DSM	Hourly [REDACTED] [REDACTED] [REDACTED]	1.50	
07/28/08 Billed	0 AAP	Hourly Add PPS to complaint, edits, research on jurisdictional deadlines, e-mail to DM	1.90	
07/29/08 Billed	DSM	Hourly [REDACTED] [REDACTED]	0.10	
07/30/08 Billed	DSM	Expense [REDACTED] [REDACTED]		18.20
07/30/08 Billed	DSM	Hourly [REDACTED] [REDACTED]	0.10	
07/30/08 Billed	DSM	Hourly [REDACTED] [REDACTED]	0.20	
07/30/08 Billed	0 DSM	Hourly [REDACTED] [REDACTED]	0.20	
07/31/08 Billed	0 DSM	Hourly Phone Call with Steve Mashude (EJ)	0.50	
07/31/08 Billed	DSM	Hourly [REDACTED] [REDACTED]		38.55
Matter 32-1 48 transactions		Hours: Expenses:	80.10	56.85
48 transactions 1 matter		Hours: Expenses:	80.10	56.85

Hours and Expenses by Matter

Period: 08/01/2008-08/31/2008

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08/31/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
<hr/>				
Matter 32-1		Preserve Our Island First matter		
08/04/08 Billed	DSM	Hourly Phone call with Michael Stoddard (10/10/08)	0.10	
08/05/08 Billed	DSM	Hourly Phone call with Amy	0.20	
08/08/08 Billed	DSM	Hourly Meeting with Amy	1.30	
08/08/08 Billed	DSM	Hourly Phone call with clerk, emails with opposing Counsel re: Meeting schedule	0.20	
• 08/11/08 Billed	DSM	Hourly Review files for litigation timelines; email to client; review WEC standing statement.	1.00	
08/12/08 Billed	DSM	Hourly Review files for litigation timelines; email to client; review WEC standing statement.	1.00	
• 08/13/08 Billed	DSM	Hourly additional research; revise complaint; revise and finalize 60 day notices; [REDACTED]	4.00	1.00
• 08/14/08 Billed	DSM	Hourly Research and revise	0.50	
08/15/08 Billed	DSM	Hourly [REDACTED] [REDACTED] [REDACTED]	0.20	
08/18/08 Billed	DSM	Hourly [REDACTED] [REDACTED] [REDACTED]	0.50	
• 08/19/08 Billed	DSM	Hourly Phone calls with [REDACTED]; Phone calls with Amy Carey; Phone call with Steve Mashuda; Review Mashuda's comments;	3.30	3.00

Hours and Expenses by Matter

Period: 08/01/2008-08/31/2008

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08/31/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
		LR re: service on Glacier; Revise and finalize 60 day notices; Edits to Federal Complaint; Finalize service requirements for Federal		
08/20/08 Billed	DSM	Hourly Additional legal research re: ESA claims; phone call with Steve Mashuda; finalize for filing complaint, ESA 60 day notices; PCUR	1.50 1.3	
08/20/08 Billed	DSM	Hourly Phone call with Amy	0.20	
08/21/08 Billed	DSM	Hourly Review Amy, phone calls with Courtney, David, Gary	0.40	
08/29/08 Billed	KPS	Hourly To A. Gary email current version of pleadings; review pleadings correct types and other errors in PCUR filing	1.60	
08/31/08 Billed	DSM	Hourly Photocopies	1.65	
Matter 32-1 16 transactions		Hours: Expenses:	21.60 7.0	1.65
16 transactions 1 matter		Hours: Expenses:	21.60 7.0	1.65

Hours and Expenses by Matter

Period: 09/01/2008-09/30/2008

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08/31/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
Matter 32-1		Preserve Our Island First matter		
09/02/08 Billed	KPS	Hourly [REDACTED] [REDACTED] [REDACTED]	1.10	
09/03/08 Billed	KPS	Hourly [REDACTED] [REDACTED] [REDACTED]	0.50	
09/08/08 Billed	DSM	Hourly [REDACTED] [REDACTED]	1.10	
09/09/08 Billed	DSM	Expense Clerk, U.S. District Court - filing fee		350.00
09/09/08 Billed	DSM	Hourly Phone Calls with Laura, Amy, Stiffler, Bill, Michael Meyer; Meeting with Laura W.; Prepare and oversee filing;	2.70	
09/10/08 Billed	DSM	Expense U.S. Post Office - mailing expenses, USDC (certified mail)		132.10
09/10/08 Billed	DSM	Hourly [REDACTED] [REDACTED]	0.50	
09/15/08 Billed	DSM	Hourly [REDACTED] [REDACTED]	0.20	
09/22/08 Billed	DSM	Hourly [REDACTED] [REDACTED] [REDACTED]	0.50	
09/24/08 Billed	DSM	Hourly [REDACTED] [REDACTED] [REDACTED]	0.60	
09/26/08 Billed	DSM	Hourly [REDACTED] [REDACTED]	1.00	
09/30/08 Billed	DSM	Unit Photocopies		81.90

Hours and Expenses by Matter

Period: 12/01/2008-12/31/2008

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
Matter 32-1		Preserve Our Island First matter		
12/01/08 Billed	DSM	Hourly Filing Notice of Appeal for DNR (in case)	2.00	
12/02/08 Billed	DSM	Hourly Phone call with Amy	0.20	
12/03/08 Billed	DSM	Hourly State of Washington v. [redacted] (POLY DNR)		300.00
12/03/08 Billed	DSM	Hourly King County Superior Court Clerk appeal for		300.00
12/03/08 Billed	DSM	Hourly Filing and file complaints, prepare motion for Preliminary Injunction and Carey Dec; Phone calls and emails with press DNR's attorney's. Client's attorney's court	0.50	
12/03/08 Billed	DSM	Hourly Filing Motion for TRO, prepare proposed Order	0.50	
12/03/08 Billed	DSM	Hourly Phone call with Amy	0.40	
12/04/08 Billed	DSM	Hourly Legal research, phone call and email to Sindy	0.50	
12/04/08 Billed	DSM	Hourly Phone calls and emails	0.50	
12/04/08 Billed	DSM	Hourly Legal Research to outline case for TRO in federal court	0.50	
12/04/08 Billed	DSM	Hourly Courthouse for argument, re argument for TRO	1.50	
12/04/08 Billed	DSM	Hourly Phone call with Amy	0.50	

Hours and Expenses by Matter

Period: 12/01/2008-12/31/2008

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
12/04/08 Billed	DSM	Hourly Review and respond to email from D	0.10	
12/04/08 Billed	DSM	Hourly Prepare research memo for Dow	0.50	
12/04/08 Billed	DSM	Hourly Begin work on HPA appeal	0.50	
12/05/08 Billed	DSM	Hourly Phone calls, email, legal research re: DIA action; Prepare 60 day timeline, King County, Begin preparing DIA action;	0.80	
12/05/08 Billed	DSM	Hourly Respond to DIA action; Phone call with Amy (no charge)	0.80	
12/05/08 Billed	KPS	Hourly Meet with D. Mann; research declaratory judgment question; draft brief of new complaint	1.40	
12/06/08 Billed	DSM	Hourly Prepare HPA Petition for Review	0.80	
12/06/08 Billed	DSM	Hourly Review email; pull together standards for Section 9	0.50	
12/06/08 Billed	DSM	Hourly Phone call with AG	1.00	
12/07/08 Billed	DSM	Hourly Legal Research and analysis regarding timeline	1.00	
12/08/08 Billed	DSM	Expense King County Superior Court Clerk filing fee		200.00
12/08/08 Billed	DSM	Hourly Legal research; prepare motion; review declarations; phone calls; review record;	10.00	
12/08/08 Billed	BWD	Hourly Submit and file Complaint	1.00	

Hours and Expenses by Matter

Period: 12/01/2008-12/31/2008

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
12/09/08 Billed	DSM	Hourly [REDACTED] [REDACTED] [REDACTED] [REDACTED]	8.00	
12/09/08 Billed	DSM	Hourly Review Bain Dec	0.50	
12/09/08 Billed	BWD	Hourly Legal research	4.00	
12/10/08 Billed	DSM	Hourly Work on Reply for DNR Preliminary injunction; phone calls [REDACTED]	4.00	
12/10/08 Billed	DSM	Hourly Work on federal case; phone and email	2.00	
12/11/08 Billed	DSM	Hourly Work of federal action; Review and prepare for DNR Injunction hearing; Injunction hearing; Phone calls [REDACTED]	6.00	51.0
12/11/08 Billed	KPS	Hourly [REDACTED] [REDACTED]	1.10	
12/12/08 Billed	KPS	Hourly Legal research; prepare reply brief; [REDACTED] [REDACTED] [REDACTED]	0.20	
12/12/08 Billed	BWD	Hourly Legal research	5.50	
12/14/08 Billed	DSM	Hourly Research and prepare briefing	8.00	
12/15/08 Billed	DSM	Hourly Research and Prepare Briefing	8.00	
12/16/08 Billed	DSM	Hourly Finalize and file	1.00	

Hours and Expenses by Matter

Period: 12/01/2008-12/31/2008

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
12/16/08 Billed	KPS [REDACTED]	[REDACTED]	[REDACTED]	
12/17/08 Billed	KPS [REDACTED]	[REDACTED]	2.20	
12/18/08 Billed	DSM	Hourly Review Fed and Glacier Response Briefs; Begin Work on Reply	3.50	
12/18/08 Billed	DSM	Hourly Reply Brief in support of TRO	3.50	
12/18/08 Billed	KPS [REDACTED]	[REDACTED]	[REDACTED]	
12/18/08 Billed	BWD	Hourly Legal research	3.30	
12/19/08 Billed	KPS [REDACTED]	[REDACTED]	[REDACTED]	
12/19/08 Billed	BWD	Hourly Legal research	2.40	
12/29/08 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	
12/30/08 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	
12/31/08 Billed	DSM	Expense Federal Express delivery		15.84
12/31/08 Billed	DSM	Hourly Initial review of Federal Brief	0.20	
12/31/08 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	
12/31/08 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	

Hours and Expenses by Matter

Period: 01/01/2009-01/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
Matter 32-1		Preserve Our Island First matter		
01/02/09 Billed	DSM [REDACTED]	Review and Calendar WDEFW Scheduling Order	0.10	
01/02/09 Billed	DSM [REDACTED]	Review and Calendar DNR Scheduling Order	0.10	
01/02/09 Billed	o DSM	Hourly Review Fed and Glacier response re: P.I.	0.50	
01/02/09 Billed	o DSM	Hourly Phone call with Amy	0.10	
01/05/09 Billed	o DSM	Hourly Review Courts' Order; Notice withdrawing P.I.	0.10	
01/06/09 Billed	o DSM	Hourly Phone call with Cronin et al.	0.10	
01/07/09 Billed	DSM [REDACTED]	Federal Expenses delivery		21.56
01/07/09 Billed	DSM [REDACTED]	Review email on Sand Land, pull and review Corps and LPA permits and orders. Email to Amy	0.30	
01/07/09 Billed	DSM [REDACTED]	Email exchange re: SL	0.10	
01/07/09 Billed	DSM [REDACTED]	Conference with Counsel re: PCUP discovery	0.10	
01/07/09 Billed	o DSM	Hourly Email and conference with Counsel re: federal scheduling	0.20	
01/07/09 Billed	o DSM	Hourly Phone call with Amy	0.10	
01/07/09 Billed	DSM [REDACTED]	Review Sand Land opening records, email and call to Amy	0.10	

Hours and Expenses by Matter

Period: 01/01/2009-01/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
		Michael P. [REDACTED] (MDEP), Legal [REDACTED]		
01/07/09 Billed	DSM [REDACTED] Hourly	[REDACTED]	0.10	
01/07/09 Billed	DSM [REDACTED] Hourly	Phone call with Amy, Letter to School	0.50	
01/07/09 Billed	WPS [REDACTED] Hourly	Review grand jury and civil case process	0.80	
01/08/09 Billed	DSM	Hourly Email exchange with opposing counsel re: briefing schedule	0.10	
01/12/09 Billed	DSM [REDACTED] Hourly	Email exchange with opposing counsel, Review of [REDACTED]	0.80	
01/13/09 Billed	DSM [REDACTED] Hourly	Review latest disclosures, Email to Amy	0.50	
01/15/09 Billed	DSM [REDACTED] Hourly	Phone call with Amy, Review of [REDACTED]	0.10	
01/15/09 Billed	DSM [REDACTED] Hourly	Phone call with Amy	0.20	
01/15/09 Billed	DSM [REDACTED] Hourly	Review DNR and KC conditions	0.80	
01/20/09 Billed	DSM	Hourly Email exchange with Opposing Counsel	0.10	
01/21/09 Billed	DSM	Hourly Prepare stipulated order; Conference call with opposing Counsel	0.50	
01/21/09 Billed	DSM [REDACTED] Hourly	Phone call with [REDACTED]	0.60	
01/27/09 Billed	DSM [REDACTED] Hourly	Legal [REDACTED]		155.10

Hours and Expenses by Matter

Period: 01/01/2009-01/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
01/28/09 Billed	DSM [REDACTED]	[REDACTED] Review and respond to email	0.10	
01/29/09 Billed	DSM [REDACTED]	[REDACTED] Review 1st case, Draft, and file. Answer, phone call to D.C. for [REDACTED]	0.20	
01/30/09 Billed	DSM [REDACTED]	[REDACTED] File [REDACTED]		1.50
Matter 32-1 29 transactions		Hours: Expenses:	6.30	208.36
29 transactions 1 matter		Hours: Expenses:	6.30	208.36

Hours and Expenses by Matter

Period: 03/01/2009-03/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
Matter 32-1		Preserve Our Island First matter		
03/05/09 Billed	• DSM	Hourly review pleadings; begin outline	0.50	
03/05/09 Billed	• DSM	Hourly Meeting with Amy	1.50	
03/10/09 Billed	• DSM	Hourly Legal Research	4.00	
03/12/09 Billed	• DSM	Hourly Legal research and outline brief	4.00	
03/13/09 Billed	• DSM	Hourly Research record; work on brief	1.00	
03/16/09 Billed	• DSM	Hourly Legal research and prepare brief	4.00	
03/17/09 Billed	• DSM	Hourly Review and respond to email from Amy Leitman re: definitions	0.10	
03/17/09 Billed	• DSM	Hourly Brief	5.00	
03/17/09 Billed	• DSM	Hourly Phone call with AC	0.20	
03/18/09 Billed	DSM	Hourly Phone call with Duncan Greene	0.30	
03/18/09 Billed	DSM	Hourly Email exchanges re scheduling	0.20	
03/18/09 Billed	DSM	Hourly Review documents and email	0.30	
03/18/09 Billed	DSM	Hourly Revising language	0.10	

Hours and Expenses by Matter

Period: 03/01/2009-03/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
03/19/09 Billed	• DSM	Hourly Email and phone exchanges; draft motion to amend schedule	0.50	
03/19/09 Billed	• DSM	Hourly Review docs; exchange emails; brief	1.00	
03/23/09 Billed	• DSM	Hourly Finalize and file stipulation	0.10	
03/23/09 Billed	• DSM	Hourly Phone call with Amy Carey.	0.10	
03/27/09 Billed	• DSM	Hourly Brief	3.50	
Matter 32-1 18 transactions		Hours: Expenses:	26.30	0.00
18 transactions 1 matter		Hours: Expenses:	26.30	0.00

Hours and Expenses by Matter

Period: 04/01/2009-04/30/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
Matter 32-1		Preserve Our Island First matter		
04/07/09 Billed	o DSM	Hourly Legal Research and Brief; Phone call with Amy.	4.00	
04/08/09 Billed	o DSM	Hourly Record review; legal research; Brief	5.00	
04/09/09 Billed	o DSM	Hourly Brief	5.50	
04/10/09 Billed	o DSM	Hourly Brief	8.00	
04/11/09 Billed	o DSM	Hourly Brief	3.00	
04/12/09 Billed	o DSM	Hourly Brief	5.00	
04/13/09 Billed	o DSM	Hourly Brief	4.00	
04/14/09 Billed	o DSM	Hourly Phone call with Amy	0.80	
04/14/09 Billed	o DSM	Hourly Brief	0.50	
04/14/09 Billed	o BWD	Hourly Legal research (cumulative impacts)	0.60	
04/15/09 Billed	o DSM	Hourly Brief	8.00	
04/15/09 Billed	o BWD	Hourly Legal research	1.70	
04/16/09 Billed	o DSM	Hourly Phone calls & emails re: extension	0.30	

Hours and Expenses by Matter

Period: 04/01/2009-04/30/2009

Page 2

09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
04/16/09 Billed	o DSM	Hourly Brief	6.00	
04/17/09 Billed	o DSM	Hourly Brief	4.00	
04/20/09 Billed	o DSM	Hourly Brief (reduced time)	11.00	
04/21/09 Billed	o DSM	Hourly Brief	7.00	
04/21/09 Billed	o BWD	Hourly Legal research	0.70	
04/24/09 Billed	DSM	Hourly Plaintiff's Motion for Summary Judgment	0.30	
Matter 32-1 19 transactions		Hours: Expenses:	75.30	0.00
19 transactions 1 matter		Hours: Expenses:	75.30	0.00

Hours and Expenses by Matter

Period: 05/01/2009-05/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
05/13/09 Billed	DSM	Hourly Review and respond to email with AG; Legal Research	0.20	
05/13/09 Billed	DSM	Hourly Review and respond to email with AG	0.50	
05/13/09 Billed	DSM	Hourly Review and respond to email with AG	0.10	
05/13/09 Billed	DSM	Hourly Review and respond to email with AG	4.00	
05/14/09 Billed	DSM	Hourly Review and respond to email with AG	1.00	
05/15/09 Billed	DSM	Hourly Review and respond to email with AG	0.50	
05/15/09 Billed	DSM	Hourly Review and respond to email with AG	0.50	
05/20/09 Billed	DSM	Hourly Review and respond to email with AG	0.50	
05/20/09 Billed	DSM	Hourly Review and respond to email with AG	0.20	
05/22/09 Billed	DSM	Hourly phone call with Amy; Review fed brief	0.30	
05/22/09 Billed	BWD	Hourly Reviewing Resp to MSJ	0.90	
05/25/09 Billed	BWD	Hourly Reviewing MSJ, Response to / Cross MSJ	0.00	
05/26/09 Billed	DSM	Hourly Review Federal research	0.10	
05/26/09 Billed	BWD	Hourly Reviewing Resp to MSJ	0.50	

Hours and Expenses by Matter

Period: 05/01/2009-05/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
05/27/09 Billed	DSM	Hourly Federal Brief	2.00	
05/27/09 Billed	BWD	Hourly Chambers/DM (Fed Rules CP)	0.00	
05/28/09 Billed	DSM	Hourly Federal Brief	4.00	
05/29/09 Billed	DSM	Hourly Respond to emails from AG and BND		
05/29/09 Billed	DSM	Hourly Federal Brief	2.00	
05/29/09 Billed	BWD	Hourly Reply brief	3.20	
05/30/09 Billed	BWD	Hourly Reply brief	6.40	
05/31/09 Billed	DSM	Hourly Federal Brief	10.00	
05/31/09 Billed	BWD	Hourly Reply brief	5.80	
Matter 32-1 35 transactions		Hours: Expenses:	58.30	0.00
35 transactions 1 matter		Hours: Expenses:	58.30	0.00

Hours and Expenses by Matter

Period: 06/01/2009-06/30/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
Matter 32-1		Preserve Our Island First matter		
06/01/09 Billed	o DSM	Hourly Review draft federal Brief	1.00	
06/01/09 Billed	o BWD	Hourly Federal reply brief	6.10	
06/01/09 Billed	o BWD	Hourly Legal research related to brief	0.40	
06/02/09 Billed	o DSM	Hourly Federal Brief	0.50	
06/02/09 Billed	o BWD	Hourly Legal research related to brief	5.40	
06/03/09 Billed	o DSM	Hourly Federal Brief	1.00	
06/03/09 Billed	o BWD	Hourly Federal reply brief	3.00	
06/04/09 Billed	o DSM	Hourly Federal Brief	1.00	
06/04/09 Billed	o BWD	Hourly Federal reply brief	0.10	
06/05/09 Billed	o DSM	Hourly Federal Brief	0.50	
06/06/09 Billed	o DSM	Hourly Federal Brief	2.00	
06/08/09 Billed	o DSM	Hourly Federal Brief	1.00	

Hours and Expenses by Matter

Period: 06/01/2009-06/30/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
06/08/09 Billed	• DSM	Hourly Federal Reply (discounted to 4 hours)	4.00	
06/18/09 Billed	DSM	[REDACTED]	0.50	
06/23/09 Billed	DSM	[REDACTED]		
06/23/09 Billed	DSM	[REDACTED]	0.10	
06/26/09 Billed	DSM	[REDACTED]	0.10	
06/26/09 Billed	DSM	[REDACTED]		0.10
06/30/09 Billed	DSM	[REDACTED]		0.68
Matter 32-1 20 transactions		Hours: Expenses:	33.60	116.38
20 transactions 1 matter		Hours: Expenses:	33.60	116.38

Hours and Expenses by Matter
Period: 08/01/2009-08/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
Matter 32-1		Preserve Our Island First matter		
08/03/09 Billed	DSM [REDACTED]	[REDACTED]	0.10	
08/06/09 Billed	o DSM	Hourly Prep	1.50	
08/06/09 Billed	o DSM	Hourly Phone call with Amy	0.20	
08/07/09 Billed	o DSM	Hourly Prepare for Hearing	8.00	
08/08/09 Billed	o DSM	Hourly Prepare for Hearing	2.00	
08/09/09 Billed	o DSM	Hourly Prepare for Hearing	3.50	
08/10/09 Billed	o DSM	Hourly Prepare for Hearing	1.00	
08/10/09 Billed	o DSM	Hourly Hearing	2.00	
08/10/09 Billed	DSM [REDACTED]	[REDACTED] Hearing on MSI	2.50	
08/12/09 Billed	DSM [REDACTED]	[REDACTED]		
08/12/09 Billed	DSM [REDACTED]	[REDACTED]		
08/12/09 Billed	DSM [REDACTED]	[REDACTED]	0.30	
08/12/09 Billed	DSM [REDACTED]	[REDACTED]		

Hours and Expenses by Matter

Period: 08/01/2009-08/31/2009

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09/02/09

Date Status	Timekeeper	Transaction Type Description	Hours	Amount
08/13/09 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	
08/14/09 Billed	DSM	Hourly Review decision; phone calls	0.50	
08/14/09 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	
08/14/09 Billed	USDC [REDACTED]	[REDACTED]	[REDACTED]	
08/17/09 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	
08/31/09 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	
08/31/09 Billed	DSM [REDACTED]	[REDACTED]	[REDACTED]	
08/31/09 Billed	DSM	Hourly USDC: Legal Research re: fee petition	1.50	
Matter 32-1 21 transactions		Hours: Expenses:	26.40	0.00
21 transactions 1 matter		Hours: Expenses:	26.40	0.00

Hours and Expenses by Matter

Hours

Period: 09/01/2009-09/11/2009

Matter 32:1 Preserve Our Islands

Date	Timekeeper	Transaction Type	
9/1/2009	DSM	Email with AG re: DNR briefing	0.1
9/1/2009	DSM	USDC: LR and work on Fee petition	1.8
9/2/2009	DSM	USDC: LR and work on Fee petition	1
9/3/2009	DSM	USDC: LR and work on Fee petition	1.2
9/8/2009	DSM	USDC: Work on fee declaration	1
9/8/2009	DSM	USDC: Email with David Brickling	0.1
		USDC: work on plaintiffs' declaration; DSM	
9/9/2009	DSM	Declaration; Fee Petition	4.5
9/10/2009	DSM	DNR Reply Brief	1.5
9/11/2009	DSM	USDC: Finalize Fee Petition and Declaration	1.6

EXHIBIT 2

SUMMARY OF HOURS BILLED

Preserve Our Islands, et al. v. U.S. Army Corps of Engineers, et al.
No. C08-1353-RSM

<u>Year</u>	<u>Month</u>	<u>D.S. Mann</u>	<u>A. Peck</u>	<u>B. Donckers</u>
2008	July	17.9	32.7	
	August	7		
	September	2.7		
	December	32.2		15.2
	<i>2008 Subtotal</i>	<i>59.8</i>	<i>32.7</i>	<i>15.2</i>
2009	January	1.8		
	March	25.5		
	April	72.1		3
	May	16.4		16.3
	June	6.5		14.9
	August	20.2		
	September	11.2		
	<i>2009 Subtotal</i>	<i>153.7</i>		<i>34.2</i>

EXHIBIT 3

~~DATE~~

#3,000
Paid 2.17.09
check #687

18309 126th Ave., NE, #911,
Bothell, WA 98011
January 12, 2009

David S. Mann
Gendler & Mann, LLP
1424 Fourth Ave, Suite 1015
Seattle, WA 98101

Dear Mr. Mann,

Please remit \$3,000 for preparation of declarations on behalf of Preserve our Islands regarding proposed development of a dock at the Glacier Mine. This work required 30 hours of labor at \$100 / hr.

Payment may be sent to me at the above address.

If you have any questions or need more details, please contact me at dbain@u.washington.edu or call me at (425) 402-4378.

My Social Security Number is

Thank you for your prompt attention to this matter.

Sincerely,

David E. Bain

Dr. David E. Bain

ENTERED ON: 1/1
BY: